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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/782,023	
	Filing Date	02/18/2004	
	First Named Inventor	Thomas A. Findley	
	Art Unit	3625	
	Examiner Name	Rosen, N.D.	
Total Number of Pages in This Submission	10	Attorney Docket Number	NE1.008

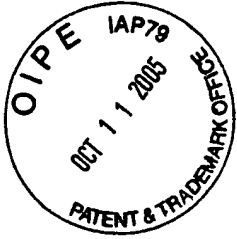
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

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Applicant:	Thomas A. Findley	Art Unit:	3625
Serial No.:	10/782,023	Examiner:	Rosen, Nicholas
Filing Date:	02/18/2004	Docket:	NE1.008
Title:	DEVICE FOR SELECTIVELY BLOCKING REMOTE PURCHASE REQUESTS		

SUBSTITUTE APPEAL BRIEF

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Date: 10/06/2005

Board of Patent Appeals and Interferences
Washington, D.C. 20231

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Thomas Findley,)
Appellant) SUBSTITUTE APPEAL BRIEF
20 vs.) UNDER 37 CFR 41.37
United States Patent Office,)
Appellee.)

Introduction:

This Appeal Brief is October 6, 2005 and is a replacement for a brief originally submitted on April 16, 2004, which was accompanied by the appropriate fee. All claims under Appeal have
5 been finally rejected.

Real Party in Interest:

The Real Party in Interest is Network Sciences, Inc., an Oregon Corporation, of which Thomas Findley, a resident of
10 Portland, Oregon, is president.

Related Appeals and Interferences:

There are no related Appeals or Interferences known to Appellant.
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Status of the Claims:

The claims all received a final rejection on October 21, 2004 and had all been twice rejected in the parent case, first on October 9, 2002 and then again on November 25, 2002.
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Status of the Amendments:

No amendment has been filed.

Summary of the Claimed Subject Matter:

25 Claim 1, the only independent claim involved in the appeal, recites a method for partially verifying the legitimacy of a remote purchase request based on a card number from a card issuing financial institution. The method includes receiving and storing a first purchase request information set including an
30 electronic origin (e.g. originating telephone number or internet address of the purchase request) and a card number (block 112 and 114 of FIG. 2A and page 5, line 7 to page 6, line 8).

Further, the origin and the card number are sent to the card issuing financial institution to determine if the origin matches an origin on file for the card number at the card issuing financial institution (block 126 of FIG. 2B and page 10, lines 5 to 24).

Grounds of Rejection:

1. Claims 1-3 stand rejected for putatively being rendered obvious under 35 USC §103 by U.S. Patent 6,095,413 (Tetro) in view of U.S. Patent 5,862,220 (Perlman)?

Argument:

Claims 1 through 3 stand rejected under 35 USC 103 over Tetro in view of Perlman. The combination of Tetro and Perlman, however, does not yield the method of claim 1. Indeed, there is no suggestion, in either Tetro or Perlman, though both of these patents address remote sales fraud prevention, of determining whether an electronic origin is associated with a credit card number. Tetro does not address the electronic origin.

Perlman only associates the electronic origin with the expected ANI of a "customer box." (Perlman, page 13, line 37-39). Perlman's "customer box" is a physical box that is electrically associated with a television set, a television cable and a telephone line. This association is, however, completely different from and in no way suggests the action of a purchase request receiving party sending an origin to a financial institution, together with a credit card number.

First, the ANI private server already has an expected origin on file for the "client box" so there is no need to send the origin on to a third party, such as a financial institution, for verification of the association. A remote merchant, on the

other hand, has no indication of whether the electronic origin is associated with a credit card number and so must query the financial institution.

Second, neither Tetro nor Perlman suggest the method
5 of Claim 1, because the rational for checking the ANI (caller ID) is not suggested in either of these patents. Tetro, in checking the customer-entered address and social security number against the credit card information on file at the financial institution is giving a knowledge test to the card user. If the
10 card user does not know the billing address of the card or the social security number of the legitimate card user, he almost certainly is using the card fraudulently. Perlman, on the other hand, is just verifying that the person contacting the server over the telephone line is associated with a "client box" in
15 order to access the secure network. For Perlman and Tetro, failing the test results in a user lockout and purchase request rejection, respectively.

But, in the case of the present invention the reason for associating the ANI with the credit card number serves a far
20 more subtle purpose: to provide a reassurance in an otherwise doubtful case that the card is being used by the card owner. Because a card user is entitled to make purchases using his card from a telephone number that is not listed at the financial institution, the fact that another telephone number is being
25 used is far from an indication of fraud. But in a close case it could tip the purchase request into the accepted category, if it is a number on file, or an unaccepted category, if it is an unassociated number. This fine judgment is completely different from the decision point of either Perlman or Tetro, where the
30 associated telephone number or knowledge of the billing address is an absolute requirement for accessing the secure network, or completing a purchase, respectively.

It is worth noting that when Perlman discloses using the client box to make a purchase, the purchase is made by use of a credit card (col 13, lines 29-38). This would not be necessary if the box of Perlman replaced the function of a credit card. Accordingly, the only fraud Perlman's method would prevent is that caused by a change in location of the "box" from one telephone line to another, by theft of the box or, perhaps, because it had been lent to a friend or moved to the user's new dwelling.

10 **Even when Perlman and Tetro are combined,** a thief could use the Perlman box connected to Perlman's system, and a stolen credit card to buy an item from a merchant who was protected by the Tetro method **without the merchant being notified that the electronic origin of the purchase request did**
15 **not match any electronic origin associated with the credit card used.** Moreover, and perhaps of greater import, if a prospective customer were to attempt to buy an expensive item from a merchant from whom he had never purchased before, the merchant might decline the purchase and lose a lucrative sale **because he**
20 **had no assurance that the electronic origin was associated with the credit card used, even though the prospective purchaser was using his own credit card and his own Perlman box (WebTV), from his own home.** Even if the merchant was notified that the box was connected to its designated telephone line **there would be no**
25 **reassurance that a thief had not gained access to that box, either because he had signed up for WebTV, was a guest at the box owner's house or a roommate of the box owner. An enterprising thief could sign up for WebTV with false name information, make many purchases with stolen card numbers for**
30 **which he might be able to determine the billing addresses, and then move and disassociate himself from the telephone number used before his theft became apparent.** With the method of the

present invention, the thief would have to gain access to a telephone line or Internet address matching a card number, greatly complicating his task.

Moreover, although the Perlman method requires a box that is connected to a telephone line and some other remote access network, the method of the present invention is applicable to any credit or debit card remote purchase made via the Internet or telephone line, without any great complication.

Accordingly, the present invention, made possible by subtle insight into the purchase request approval decision, is in no way made obvious by the teachings of Tetro, regardless of how those teachings are elucidated or augmented by the very different and inapplicable teachings of Perlman.

Respectfully submitted,

A handwritten signature in cursive script, reading "Timothy E. Siegel", written in black ink over a horizontal line.

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APPENDICES

CLAIMS UNDER APPEAL

5 1. A method for partially verifying the legitimacy of
a remote purchase request based on a card number from a card
issuing financial institution, comprising:

 (a) receiving and storing a first purchase request
 information set including an electronic origin
10 and a card number; and

 (b) sending said electronic origin and said card
 number to said card issuing financial institution
 to determine if said origin matches an origin on
 file for said card number at said card issuing
15 financial institution.

 2. The method of claim 1, further comprising
receiving an indication of whether or not said origin did match
said origin on file for said card number at said card issuing
20 financial institution.

 3. The method of claim 1, further comprising said
financial institution comparing said origin to a file of origins
associated to said card number.

EVIDENCE APPENDIX

No evidence was entered in this case.

5 RELATED PROCEEDINGS APPENDIX

There are no related proceedings to this case.

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15 on October 6, 2005

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Date: October 6, 2005

Claudia Degner

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